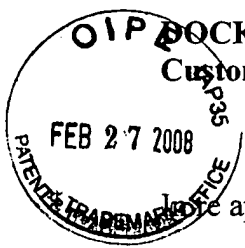


02/28/08

TZ  
DAC



POCKET NO. PRES06-00147  
Customer No. 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Notice application of : Ronald A. Schachar  
Serial No. : 09/589,626  
Filed : June 7, 2000  
For : SCLERAL PROSTHESIS FOR TREATMENT OF PRESBYOPIA  
AND OTHER EYE DISORDERS  
Group No. : 3738  
Examiner : David H. Willse

**MAIL STOP ISSUE FEE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**  
**DETERMINATION UNDER 37 C.F.R. § 1.705(b)**

The Applicant respectfully requests that the Patent Office reconsider the patent term adjustment determination for the above-identified patent application. In support, the Applicant submits the following:

1. In the Notice of Allowance dated November 27, 2007, the patent term adjustment was determined to be 905 days. The Applicant believes this determination to be in error.
2. The Applicant believes the correct patent term adjustment should be calculated as 911 days (an increase of 6 days).
3. This patent application was filed on June 7, 2000.
4. A response to the first Office Action on the merits was received by the Office on April 30, 2001.
5. The second Office Action on the merits was mailed December 26, 2002. The

second Office Action was therefore issued 483 days after four months from the Applicant's response to the first Office Action (+483 days).

6. The Applicant's response to the second Office Action was received by the Patent Office on July 1, 2003, resulting in a deduction of 97 days (-97 days).

7. The PAIR system indicates that a Terminal Disclaimer was received by the Patent Office on July 7, 2003, resulting in a deduction of 6 additional days (-6 days). However, the Terminal Disclaimer was filed with the Applicant's response to the second Office Action, which was received by the Office on July 1, 2003. Moreover, the appropriate fee for the Terminal Disclaimer accompanied the Terminal Disclaimer and the response received on July 1, 2003. This is indicated by the attached postcard, Certificate of Mailing, and Petition for Extension of Time included in the Appendix. As a result, no additional 6 day deduction should have been made.

8. A Notice of Appeal was filed on October 17, 2003, and a decision by the BPAI was rendered on November 23, 2004. The BPAI decision affirmed the Examiner's prior art rejection but reversed the Examiner's § 101 rejection. Because the appeal was partially successful, the Applicant receives an additional 404 days due to the appeal (+404 days).

9. Court proceedings before the CAFC were terminated on June 14, 2006, and the application contained pending allowed and allowable claims. The Applicant filed an RCE on February 26, 2007, and a rejection was mailed on April 20, 2007. The Applicant therefore receives an additional 188 days for the delay between four months from the termination of the court proceedings and the rejection mailed on April 20, 2007 (+188 days).

10. The Applicant's response to the rejection mailed April 20, 2007 was received on September 25, 2007, resulting in a deduction of 67 days (-67 days).

11. The Applicant believes the correct patent term adjustment should be calculated as 911 days (483 days – 97 days + 404 days + 188 days – 67 days).

12. In the event the Applicant's calculation is incorrect and the Applicant is entitled to a patent term adjustment greater than 911 days, the Applicant respectfully requests the Office to determine and issue the proper patent term adjustment entitled to the Applicant.

Therefore, the Applicant respectfully requests that the Office reconsider the determination of patent term adjustment and find that the Applicant is entitled to a patent term adjustment in the amount of 911 days.

If any issues arise, the Applicant respectfully invites the Office to contact the undersigned at the telephone number indicated below or at *wmunck@munckbutrus.com*.

The Applicant has included the \$200.00 fee for this petition. The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK BUTRUS CARTER, P.C.



William A. Munck  
Registration No. 39,308

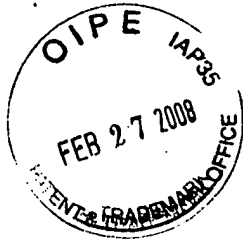
Date: Feb. 27, 2008

P.O. Drawer 800889  
Dallas, Texas 75380  
(972) 628-3600 (main number)  
(972) 628-3616 (fax)  
E-mail: *wmunck@munckbutrus.com*

DOCKET NO. PRES06-00147  
SERIAL NO. 09/589,626  
PATENT

## **APPENDIX**

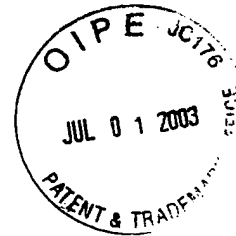
COPY OF STAMPED POSTCARD, CERTIFICATE OF MAILING, AND  
PETITION FOR EXTENSION OF TIME



Mailed: June 26, 2003  
In re. Application of: RONALD A. SCHACHAR  
Serial No.: 09/589,626  
Filed: June 7, 2000  
Title: SCLERAL PROSTHESIS FOR TREATMENT OF PRESBYOPIA  
AND OTHER EYE DISORDERS  
Docket No.: PRES06-00147

The following documents were received in the U.S. Patent and Trademark Office on the date stamped below:

- 1) Check in the amount of \$1,040.00 for the Terminal Disclaimer (\$110.00);  
Extension of Time (3 mo.) (\$930.00) filing fees;
- 2) Certificate of Mailing by First Class Mail;
- 3) Amendment Under 37 C.F.R. §1.111;
- 4) Petition for Extension of Time (3 month) (in duplicate);
- 5) Terminal Disclaimer.



**DOCKETED**

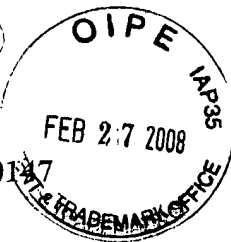
JUL - 8 2003

**RECEIVED**

JUL - 7 2003

DAVIS MUNCK

DOCKET NO. : PRES06-00147  
CUSTOMER NO.: 23990



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : RONALD A. SCHACHAR  
Serial No. : 09/589,626  
Filed : June 7, 2000  
For : SCLERAL PROSTHESIS FOR TREATMENT OF PRESBYOPIA  
AND OTHER EYE DISORDERS  
Group No. : 3738  
Examiner : David H. Willse

**MAIL STOP FEE AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**CERTIFICATE OF MAILING BY FIRST CLASS MAIL**

The undersigned hereby certifies that the following documents:

1. Postcard receipt;
2. Check in the amount of \$1,040.00 for the 3 mo. extension of time (\$930.00) and Terminal Disclaimer filing fee (\$110.00);
3. Amendment Under 37 C.F.R. §1.111;
4. Petition for Extension of Time (3 month) (in duplicate); and,
5. Terminal Disclaimer to Obviate a Double Patenting Rejection Over a Prior Patent

relating to the above application, were deposited as "First Class Mail" with the United States Postal Service, addressed to: MAIL STOP FEE AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 26, 2003.

Date: June 26, 2003

Kathy Hamilton  
Mailer

Date: June 26, 2003

William A. Munck  
William A. Munck  
Reg. No. 39,308

P.O. Drawer 800889  
Dallas, Texas 75380  
Phone: (972) 628-3600  
Fax: (972) 628-3616  
E-mail: [wmunck@davismunck.com](mailto:wmunck@davismunck.com)

DOCKET NO. : PRES06-00147  
CUSTOMER NO.: 23990



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : RONALD A. SCHACHAR  
Serial No. : 09/589,626  
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AND OTHER EYE DISORDERS  
Group No. : 3738  
Examiner : David H. Willse

**MAIL STOP FEE AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**PETITION FOR EXTENSION OF TIME**

Applicant respectfully requests a three month extension of time for filing a response to the Office Action mailed December 26, 2002. The response period is presently set to expire on March 26, 2003, and if this Petition for Extension of Time is granted, the new response date will be June 26, 2003.

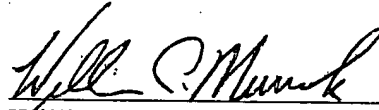
A check in the amount of \$1,040.00 is enclosed for the three month extension (\$930.00) and the terminal disclaimer (\$110.00) filing fees. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date:

June 26, 2003



William A. Munck

Registration No. 39,308

P.O. Drawer 800889

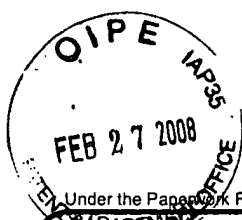
Dallas, Texas 75380

Tel: (972) 628-3600

FAX: (972) 628-3616

email: [wmunck@davismunck.com](mailto:wmunck@davismunck.com)





PTO/SB/17 (10-07)

Approved for use through 06/30/2010. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2008

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1,655.00

**Complete if Known**

Application Number	09/589,626
Filing Date	June 7, 2000
First Named Inventor	Ronald A. Schachar
Examiner Name	David H. Willse
Art Unit	3738
Attorney Docket No.	PRES06-00147

**METHOD OF PAYMENT** (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☒ Deposit Account Deposit Account Number: 50-0208 Deposit Account Name: Munck Butrus, P.C.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, **except for the filing fee**☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

**2. EXCESS CLAIM FEES****Fee Description**

	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 20 or HP =	x	=	

HP = highest number of total claims paid for, if greater than 20.

<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 3 or HP =	x	=	

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<b>Total Sheets</b>	<b>Extra Sheets</b>	<b>Number of each additional 50 or fraction thereof</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 100 =	/ 50 =	(round up to a whole number) x	=	

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Issue Fee (\$1,440), Reconsideration of Pat. Term Fee (\$200) and copies of patent (\$15) **Fees Paid (\$)** \$1,655**SUBMITTED BY**

Signature		Registration No. (Attorney/Agent) 39,308	Telephone 972-628-3600
Name (Print/Type)	William A. Munck	Date Feb. 27, 2008	

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.